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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,160	12/30/2003	Jean-Jacques Katz	04356 (3883.00031)	7806

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EXAMINER

MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,160

Applicant(s)

KATZ ET AL.

Examiner

Barbara J. Musser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The bottom layer is not described as shoddy in the invention. This is not considered new matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobsen(U.S. Publication 2004/0065507A1).

Jacobsen discloses a laminate made of a scrim/adhesive layer/shoddy/adhesive layer/scrim.(Abstract; [0032]) The scrim is embedded in the film which is then joined to the shoddy layer.[0046] A mastic is considered to be any material which bonds the layers together. Since the scrim is embedded in the adhesive, the scrim would be capable of bonding to the B-side of an automotive carpeting. It is noted the claim is not

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limited to three layers, only requiring at least the three layers claimed with the scrim layer on the exterior.

Regarding claims 12, 13, and 15, the middle layer is tacky when heated and this allows bonding of the scrim to the shoddy.[0046]

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen as applied to claim 11 in view of Fujita et al..

The references cited do not disclose forming the shoddy by placing one layer in a mold, extruding the mastic layer onto the layer in the mold, and then applying the second layer to the mastic. Fujita et al. discloses bonding together layers in a automotive interior component by placing a first layer on a mold, extruding a bonding material, and applying a second layer to the bonding material.(Abstract; Figure 2) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply either the organic fine layer or the scrim to a mold, extrude the mastic material onto it, and then apply the other of the scrim and organic layer to the mastic since Fujita et al. shows this is a well-known method of bonding together components in

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an automobile and because this allows bonding of porous materials without forcing the adhesive material through the porous material.(Col. 2, ll. 17-21)

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen as applied to claim 11 above, and further in view of Thompson et al.(U.S. Publication 2004/0110438A1).

The reference cited above does not disclose the specific locations the sound absorbing laminate can be used in a vehicle, only that it can be used in a vehicle.[0011] Thompson et al. discloses an acoustic laminate having a recycled(shoddy) layer with scrim layers on either side.([0023],[0025]) This layer can be used in conjunction with carpeting for floor panels in vehicles.[0002] Since it would not be on top of the carpeting, one in the art would appreciate that it would be below the carpeting. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the sound absorbing laminate of Thompson under the carpeting of a vehicle as suggested by Thompson et al. since Thompson et al. suggests this is a conventional use of such sound absorbing laminates. Since the laminate has two scrim layers, one of them would contact the B-side of the carpeting.

Regarding claim 18, the references cited above do not disclose how the scrim layer(5) is attached to the roof of the vehicle. However, the use of adhesive to bond materials together is extremely well-known in the bonding arts, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply adhesive to either the scrim layer or to the roof to bond the headliner to the roof since

the use of adhesives to bond materials together is extremely well-known in the bonding arts.

Response to Arguments

7. Applicant's arguments filed 9/18/06 have been fully considered but they are not persuasive.

Regarding applicant's argument that mastic is defined as a primarily bituminous material in the specification, the mastic layer is described as such. This is not a definition, but an example. A description of some desired properties is not a definition. If a description were a definition, then applicant's claim also requires the scrim to be a thickness less than or equal to five millimeters[0024] as the same type of language is used to describe the scrim as it used to describe the mastic layer. A definition requires the specification to clearly define the material, such as for example, "by mastic I mean", "the definition of mastic is", etc. Otherwise, examiner is reading information in the specification into the claims as is not allowed. If applicant truly believes the claims require this, then it is strongly suggested than applicant include this is the claim. The fact that applicant has not leads examiner to applicant does not intend the claim to be limited to bituminous materials, let alone those with a predetermined density and thickness to improve aesthetics. If the specification had disclosed "a layer made of plastic being primarily polyethylene", but the claim indicated the layer was plastic, the claim could read on other materials than polyethylene. Only if applicant amended the claim to include the layer being polyethylene would the claim be restricted to

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polyethylene. Conversely, if the specification disclosed, in a section labeled definitions that "film refers to a thermoplastic film made using a film extrusion and/or foaming process"(U.S. Patent 6,652,696, Col. 2, ll. 65-66) then the word "film" in the claim would be considered to exclude thermosetting films and other type materials which do not meet that definition without the definition being placed in the claims. If examiner were free to include examples and descriptions into the claims, the exact scope of the claim would be unclear. For example, applicant's original article claims indicate the base material is fibrous(claim 2). However, applicant's apparent argument is that such would already be required by claim 1 since the base material is only described as a fibrous containing material in the specification. Should examiner then conclude that the independent claim requires this and that claim 2 does not further limit the independent claim? Applicant did not clearly state the definition of either mastic or shoddy, simply giving general examples of such. Therefore, a mastic material is considered any material which can bond the layers together, and a shoddy layer is considered any layer made of natural or recycled fibers.

8. In response to applicant's argument that the references do not disclose or indicate they solve the problems discussed by applicant, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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